

Council Regulation (EU) No 1385/2013 of 17 December 2013 amending Council Regulations (EC) No 850/98 and (EC) No 1224/2009, and Regulations (EC) No 1069/2009, (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, following the amendment of the status of Mayotte with regard to the European Union

COUNCIL REGULATION (EU) No 1385/2013

of 17 December 2013

amending Council Regulations (EC) No 850/98 and (EC) No 1224/2009, and Regulations (EC) No 1069/2009, (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, following the amendment of the status of Mayotte with regard to the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,

Having regard to the opinion of European Economic and Social Committee<sup>(2)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) By European Council Decision 2012/419/EU<sup>(3)</sup>, the European Council decided to amend the status of Mayotte with regard to the Union with effect from 1 January 2014. From that date, Mayotte will cease to be an overseas country or territory and will become an outermost region of the Union within the meaning of Article 349 and Article 355(1) of the Treaty on the Functioning of the European Union (TFEU). Following this amendment of the legal status of Mayotte, Union law will apply to Mayotte from 1 January 2014. Taking account of the particular structural social and economic situation of Mayotte, which is compounded by its remoteness, insularity, small size, difficult topography and climate, certain specific measures should be provided for in a number of areas.
- (2) In the field of fisheries and animal health, the following Regulations should be amended.
- (3) As regards Council Regulation (EC) No 850/98<sup>(4)</sup>, the waters around Mayotte, as a new outermost region, should be included within the scope of that Regulation and the use of purse-seines on tuna and tuna-like schools of fish inside the area within 24 miles from

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the baselines of the island should be prohibited, in order to preserve the shoals of large migratory fish in the vicinity of the island of Mayotte.

- (4) As regards Regulation (EU) No 1379/2013 of the European Parliament and of the Council<sup>(5)</sup>, in view of the very fragmented and under-developed marketing schemes of Mayotte, the application of the rules on the labelling of fishery products would impose on retailers a burden disproportionate to the information that would be transmitted to the consumer. It is therefore appropriate to provide for a temporary derogation from the rules concerning the labelling of fishery products offered for retail sale to the final consumer in Mayotte.
- (5) As regards Regulation (EU) No 1380/2013 of the European Parliament and of the Council<sup>(6)</sup>, specific measures should be introduced with respect to fishing capacity and the fleet register.
- (6) An important part of the fleet flying the flag of France and operating from the French Department of Mayotte is composed of vessels of less than 10 metres which are dispersed around the island, have no specific landing sites and still need to be identified, measured and equipped with minimum safety equipment in order to be included in the register of Union fishing vessels. As a consequence, France will not be able to complete this register until 31 December 2021. France should, however, keep a provisional fleet register guaranteeing minimum identification of the vessels of this segment, in order to avoid the proliferation of informal fishing vessels.
- (7) In view of the fact that France has presented to the Indian Ocean Tuna Commission (IOTC) a development plan describing the indicative size of the fleet of Mayotte and the expected evolution of the underdeveloped fleet of mechanical long-liners which are less than 23 metres in length and of purse-seiners based in Mayotte, as a new outermost region, to which no IOTC contracting party, including the Union, has objected, it is appropriate to use the reference levels of that plan as ceilings for the capacity of the fleet of mechanical long-liners which are less than 23 metres in length and of purse-seiners registered in the ports of Mayotte. By way of derogation from the generally applicable Union rules, and due to the current specific social and economic situation of Mayotte, sufficient time should be provided to allow France to increase the capacities of the underdeveloped segment of its fleet of smaller vessels until 2025.
- (8) As regards Regulation (EC) No 1069/2009 of the European Parliament and of the Council<sup>(7)</sup>, it should be noted that Mayotte has no industrial capacity for the processing of animal by-products. It is therefore appropriate to allow France a period of five years in order to establish the infrastructure necessary for the identification, handling, transport, treatment and disposal of animal by-products in Mayotte in full compliance with Regulation (EC) No 1069/2009.
- (9) As regards Council Regulation (EC) No 1224/2009<sup>(8)</sup>, it appears that France will not be in a position to comply with all Union control obligations for the segment "Mayotte. Pelagic and demersal species. Length < 10 m" of the fleet of Mayotte by the date on which Mayotte will become an outermost region. The vessels of that segment, dispersed around the island, have no specific landing sites and still need to be identified. In addition, it is necessary to train fishermen and controllers and to set up the appropriate

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administrative and physical infrastructure. It is therefore necessary to provide for a temporary derogation from certain rules concerning the control of fishing vessels and their characteristics, their activities at sea, their gear and their catches at all stages from the vessel to the market in respect of that segment of the fleet. However, in order to attain at least some of the most important objectives of Regulation (EC) No 1224/2009, France should establish a national control system allowing it to control and monitor the activities of that segment of the fleet and to comply with the international reporting obligations of the Union.

- (10) Regulations (EC) No 850/98, (EC) No 1069/2009, (EC) No 1224/2009, (EU) No 1379/2013 and (EU) No 1380/2013 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

#### **Amendments to Regulation (EC) No 850/98**

Regulation (EC) No 850/98 is amended as follows:

- (1) In Article 2(1), point (h) is replaced by the following:

"(h) Region 8

All waters off the coasts of the French departments of Réunion and Mayotte that fall under the sovereignty or jurisdiction of France."

- (2) The following article is inserted:

#### *"Article 34g*

#### **Restrictions on fishing activities in the 24-mile zone around Mayotte**

Vessels shall be prohibited from using any purse-seine on tuna and tuna-like schools of fish inside the area within 24 miles of the coasts of Mayotte, as an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union, measured from the baselines from which territorial waters are measured."

#### *Article 2*

#### **Amendment to Regulation (EU) No 1379/2013**

In Article 35 of Regulation (EU) No 1379/2013, the following paragraph is inserted:

"6 Until 31 December 2021, paragraphs 1, 2 and 3 shall not apply to products offered for retail sale to the final consumer in Mayotte, as an outermost region within the meaning of Article 349 TFEU."

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### Article 3

#### **Amendments to Regulation (EU) No 1380/2013**

Regulation (EU) No 1380/2013 is amended as follows:

(1) In Article 23, the following paragraph is added:

"4 By way of derogation from paragraph 1, France shall be authorised, until 31 December 2025, to introduce new capacity without the withdrawal of an equivalent capacity for the various segments in Mayotte, as an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union (hereinafter "Mayotte"), referred to in Annex II."

(2) In Article 36, the following paragraphs are added:

"5 By way of derogation from paragraph 1, France shall be exempted until 31 December 2021 from the obligation to include in its register of Union fishing vessels those vessels which are less than 10 metres in overall length and which operate from Mayotte.

6 Until 31 December 2021, France shall keep a provisional register of fishing vessels which are less than 10 metres in overall length and which operate from Mayotte. That register shall contain at least the name, overall length and an identification code of each vessel. Vessels registered in the provisional register shall be considered to be vessels registered in Mayotte."

(3) The entries concerning Mayotte contained in the Annex to this Regulation shall be inserted into the table in Annex II to the Regulation (EU) No 1380/2013 after the entry "Guadeloupe: Pelagic species. L> 12m".

### Article 4

#### **Amendment to Regulation (EC) No 1069/2009**

In Regulation (EC) No 1069/2009, Article 56 is replaced by the following:

*"Article 56*

#### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 4 March 2011.

However, Article 4 shall apply to Mayotte, as an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union (hereinafter "Mayotte"), from 1 January 2021. Animal by-products and derived products generated in Mayotte before 1 January 2021 shall be disposed of in accordance with Article 19(1)(b) of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States."

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## Article 5

### **Amendment to Regulation (EC) No 1224/2009**

In Regulation (EC) No 1224/2009, the following article is inserted:

#### *"Article 2a*

#### **Application of the Union control system to certain segments of the fleet of Mayotte as an outermost region**

1 Until 31 December 2021, Article 5(3) and Articles 6, 8, 41, 56, 58 to 62, 66, 68 and 109 shall not apply to France in respect of fishing vessels which are less than 10 metres in overall length and which operate from Mayotte, an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union (hereinafter "Mayotte"), and the activities and catch of such fishing vessels.

2 By 30 September 2014, France shall establish a simplified and provisional scheme of control applicable to fishing vessels which are less than 10 metres in overall length and which operate from Mayotte. That scheme shall address the following issues:

- a knowledge of fishing capacity;
- b access to Mayotte waters;
- c implementation of declaration obligations;
- d designation of the authorities responsible for the control activities;
- e measures ensuring that any enforcement on vessels longer than 10 metres length is carried out on a non-discriminatory basis.

By 30 September 2020, France shall present to the Commission an action plan setting out the measures to be taken in order to ensure the full implementation of Regulation (EC) No 1224/2009 from 1 January 2022 concerning fishing vessels which are less than 10 metres in overall length and which operate from Mayotte. That action plan shall be the subject of a dialogue between France and the Commission. France shall take all necessary measures to implement that action plan."

#### *Article 6*

#### **Entry into force**

This Regulation shall enter into force on 1 January 2014.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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Done at Brussels, 17 December 2013.

*For the Council*

*The President*

L. LINKEVIČIUS

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## ANNEX

### FISHING CAPACITY CEILINGS FOR THE FLEETS REGISTERED IN MAYOTTE AS AN OUTERMOST REGION IN THE MEANING OF ARTICLE 349 TFEU

Mayotte. Seiners	13 916 <sup>a</sup>	24 000 <sup>a</sup>
Mayotte. Mechanical long-liners < 23 m	2 500 <sup>a</sup>	8 500 <sup>a</sup>
Mayotte. Demersal and pelagic species. Vessels < 10 m	p.m. <sup>b</sup>	p.m. <sup>b</sup>

**a** According to the development plan presented to IOTC on 7 January 2011.

**b** Ceilings shall be indicated in this table when ready and at the latest by 31 December 2025.

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- (1) Opinion of 12 December 2013 (not yet published in the Official Journal).
- (2) [OJ C 341, 21.11.2013, p. 97.](#)
- (3) European Council Decision 2012/419/EU of 11 July 2012 amending the status of Mayotte with regard to the European Union ([OL L 204, 31.7.2012, p. 131](#)).
- (4) Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organism ([OJ L 125, 27.4.1998, p. 1](#)).
- (5) See page 1 of this Official Journal.
- (6) See page 22 of this Official Journal.
- (7) Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 ([OJ L 300, 14.11.2009, p.1](#)).
- (8) Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 ([OJ L 343, 22.12.2009, p. 1](#)).



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